

Appl No. 09/646,984  
Atty. Docket No. 7070  
Amdt. Dated June 17, 2004  
Reply to Office Action of March 17, 2004  
Customer No. 27752

Remarks

Claims 12, 13 and 21 have been canceled without prejudice. Claims 1, 14, 15, 24, and 26 have been amended. Support for amendments to claims 1, 14, and 15 is found at least on page 5 of the specification. Support for the amendments to Claims 24 and 26 can be found at least in examples 1-28 of the specification. In addition, new Claims 29-34 have been added. Support for these amendments is found at least on pages 5-6 of the specification.

Claims 1, 2, 11, 14-16, 18, 20, 22, 24, 26, 27, and 29-34 are now pending in the present application.

Response to the Office Action

The Rejection under 35 U.S.C. 103(a) over Bryan et al.

Claims 1, 2, 11, 12, 18, 20, 22 and 27 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Bryan et al. (US 5,567,601). The Office Action indicates that Claims 13-16 and 21 would be allowable if rewritten in independent form. In response, Applicants have canceled claim 13 without prejudice and amended claim 1 to include the limitation of claim 13 and all intervening claims. Further, claim 21 has been canceled without prejudice and rewritten in independent form as new claim 29 including all of the limitations of the base claim and any intervening claims as suggested by the Office Action. Claims 2, 11, 12, 18, 20, 22, 27 are dependent on the amended base claim. Accordingly, Applicants respectfully submit that the rejection under 35 U.S.C. 103(a) has been overcome.

The Rejection under 35 U.S.C. 103(a) over Bryan et al. and Powell et al.

Claims 24 and 26 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Bryan et al. and Powell et al. (US 6,060,546). Applicants respectfully traverse this rejection because there is no motivation to combine the references, as required in MPEP 2143.01. Specifically, Claim 24, as currently amended, requires aqueous compositions, whereas Powell et al. teach the use of non-aqueous compositions.

There is no motivation to combine Bryan et al. with Powell et al. The Office Action states that Applicant provides no reason why one of ordinary skill in the art would have expected that subtilisin variants suggested by Bryan et al. might be unsuitable for incorporation in personal care compositions, particularly when destined for use with "soft" water or in a solution with a low calcium ion concentration such as the non-aqueous solution of Powell et al. Powell et al. teach non-aqueous emulsions and one or more water-sensitive dermatological active agents or cosmetic active agents. See column 16, line 64 to column 17, line 1. Applicant's amended claim 24 requires aqueous personal care compositions. In contrast, Powell et al. teach only non-aqueous emulsions and one or more

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water-sensitive dermatological active agents or cosmetic active agents as preferred embodiments for personal care compositions. See column 16, line 64 to column 17, line 5. Therefore, Powell et al. teach away from Applicants' claimed invention by teaching only non-aqueous compositions.

Furthermore, Powell et al. only teach the preparation of a personal care composition comprising subtilisin SP 544, while Bryan et al. specifically teach subtilisin deletion and modification. One skilled in the art would not be motivated to combine a reference teaching specific deletions and modifications of specific regions of different subtilisins with the Powell et al. general description of a personal care composition comprising subtilisin SP 544. Bryan et al. specifically teach altering amino acids in subtilisin BPN' to increase stability with metal chelators. Powell et al. teach that subtilisins can be used in personal care compositions, and there would be no motivation to combine that broad and general teaching with a reference teaching inhibition of proteolysis in an industrial environment.

Therefore, Applicants contend that a *prima facie* case of obviousness has not been established, and the claimed invention is not obvious in view of the cited references.

#### Conclusion

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. WHEREFORE, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein and allowance of Claims 1, 2, 11, 14-16, 18, 20, 22, 24, 26, 27, and 29-34.

Respectfully submitted,  
Donn Nelton Rubingh, et al.

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June 17, 2004  
Customer No. 27752

I hereby certify that this correspondence is being transmitted via facsimile to the United States Patent & Trademark Office, Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 17, 2004.	
Laura L. Frieke Name of Attorney	72,920 Registration No.
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P&amp;G Case 7070

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of :  
**DONN NELTON RUBINGH et al.** : Confirmation No. 3865  
 Serial No. 09/646,984 : Group Art Unit 1652  
 Filed September 25, 2000 : Examiner W.W. Moore  
 For **SERINE PROTEASE VARIANTS HAVING AMINO ACID DELETIONS AND SUBSTITUTIONS**

**NOTICE OF APPEAL FROM THE EXAMINER TO**  
**THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Mail Stop AF  
 Commissioner for Patents  
 P. O. Box 1450  
 Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby appeals under 37 CFR 1.191(a) to the Board of Appeals and Interferences from the last decision of the Examiner dated March 17, 2004 finally rejecting Claims 1, 2, 11, 12, 18, 20, 22 24, 26 and 27. The fee for this Notice of Appeal is \$330.00 (37 CFR 1.17(b)).

A timely response to the final rejection has been filed.

The Commissioner is hereby petitioned under 37 CFR §1.136(a) to grant any extension of time needed for response to the Office Action dated March 17 2004 in the above-identified application to permit filing this Notice of Appeal. The processing fee under 37 CFR §1.17 has been determined as follows: for a -month extension of time.

The Director is hereby authorized to charge the above fees, or any additional fees that may be required, or credit any overpayment to Deposit Account No. 16-2480 in the name of The Procter & Gamble Company. An additional copy of this Notice is enclosed for that purpose.

Respectfully submitted,

By Laura L. Frieke  
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Date: June 17, 2004

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 (appnot.doc) (Last Revised 10/10/2003)

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Laura L. Frieko Name of Attorney <u>Laura L. Frieko</u> Signature of Attorney	52,920 Registration No.

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